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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/740,965	12/21/2000	John Robert Davies	PT-1673004	7407
23607	7590	05/25/2006	EXAMINER	
IVOR M. HUGHES, BARRISTER & SOLICITOR, PATENT & TRADEMARK AGENTS 175 COMMERCE VALLEY DRIVE WEST SUITE 200 THORNHILL, ON L3T 7P6 CANADA			REDMAN, JERRY E	
			ART UNIT	PAPER NUMBER
			3634	
			DATE MAILED: 05/25/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/740,965	Applicant(s) DAVIES ET AL.	
	Examiner Jerry Redman	Art Unit 3634	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 4/11/2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 10, and 16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 10 and 16 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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Status of the claims is as follows:

Claims 3-9 and 11-15 have been cancelled; and

Claims 1, 2, 10, and 16 are herein addressed below.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.


Claims 1, 2, 10, and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Morgan ('295). Morgan discloses a window assembly comprising a window frame (16, 15-both sides, and 14), a jamb pocket portion(24 and 39-both sides), a retractable mesh screen (26) rolled onto a spring-biased cassette (column 2, lines 10-14) integrally contained within the jamb pocket (24 and 39-both sides), a handle (28) extending along the bottom portion of the screen (26) and guided along jamb pocket portion grooves (39) thereby providing parallelism as the screen (26) is biased to a closed position.

The applicant's arguments have been considered but are not deemed persuasive. Firstly, the applicant argues that since a reference (in this particular case, Morgan) refers to an element and the applicant utilizes the same term for that element, this is not written in stone that both elements are the same and/or exactly the same element. It is well known in the Patent area that certain terms may encompass more or less than desired. Therefore, in the case of the term "jamb", as long as the art discloses

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the elements and the art operates in a similar manner, then the description of the terms are irrelevant. Secondly, the applicant's amended claims are directed towards a process as well as the applicant's argument with respect thereto. Thus, terms such as "extruded" is a process step and carries little to no patentable weight. Still furthermore, the applicant uses the phraseology "for..." which fails to positively recite the claimed invention and carries little to no patentable weight. Thirdly, the applicant points out that the phraseology "permanent" shows that the applicant's invention is different than that of the prior art. Although Morgan discloses the mesh screen mounted within the frame structure, the mesh screen is capable of being removed. The applicant implies that Morgan's assembly might become abandoned if maintenance is required. Although the Examiner agrees in part that the device might be more difficult to work on than other devices, simply removing the trim board (16) of Morgan would allow even a novice to work on the mesh screen. Lastly, the applicant's arguments are much more limiting than that of the claims. Specifically, the applicant argues how easy the elements are to replace and how difficult the elements of Morgan are to either work on and/or replace.

Any inquiry concerning this communication should be directed to Jerry Redman at telephone number 571-272-6835.



Jerry Redman
Primary Examiner